

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (h)(1), (2), or (3) of this section.

[44 FR 22734, Apr. 17, 1979, as amended at 68 FR 51384, Aug. 26, 2003]

§ 1151.4 Notice.

(a) A recipient shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this part. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or employment in, its programs or activities. Methods of initial and continuing notification may include the posting of notices, publication in print, audio, and visual media, placement of notices in a recipient's publication, and distribution of other written and verbal communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

[44 FR 22734, Apr. 17, 1979, as amended at 68 FR 51384, Aug. 26, 2003]

§ 1151.5 Inconsistent State laws and effect of employment opportunities.

(a) Recipients are not excused from complying with this part as a result of state or local laws which limit the eligibility of handicapped persons to re-

ceive services or to practice a profession or occupation.

(b) The presence of limited employment opportunities in a particular profession does not excuse a recipient from complying with the regulation. For example, a music school receiving Endowment financial assistance could not deny admission to a qualified blind applicant because a blind singer may experience more difficulty than a non-handicapped singer in finding a job.

§§ 1151.6–1151.10 [Reserved]

Subpart B—Standards for Determining Who Are Handicapped Persons

§ 1151.11 Handicapped person.

(a) *Handicapped person* means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. For purposes of section 504, in connection with employment, this term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to the property or safety of others.

(b) As used in paragraph (a) of this section, the phrase:

(1) *Physical or mental impairment* means:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional and mental illness, and specific learning disabilities. The term *physical or mental impairment* includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy,

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muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment;

(iii) Has none of the impairments defined in paragraph (b)(1) of this section but is treated by a recipient as having such an impairment.

§ 1151.12 Qualified handicapped person.

Qualified handicapped person means:

(a) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question; and

(b) With respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

§§ 1151.13–1151.15 [Reserved]

Subpart C—Discrimination Prohibited

GENERAL

§ 1151.16 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any pro-

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gram or activity which receives federal financial assistance.

(b) These regulations do not prohibit the exclusion of nonhandicapped persons or persons with a specific type of handicap from aid, benefits, or services limited by Federal statute or executive order to handicapped persons or persons with a different type of handicap.

(c) Recipients shall take appropriate steps to insure that no handicapped individual is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination in any program or activity receiving Endowment financial assistance because of the absence of appropriate auxiliary aids for individuals with impaired sensory, manual, or speaking skills.

(d) Recipients shall take appropriate steps to insure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(e) Recipients shall administer programs or activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

[44 FR 22734, Apr. 17, 1979, as amended at 68 FR 51384, Aug. 26, 2003]

§ 1151.17 Specific discriminatory actions prohibited.

(a) A recipient, in providing any aid, benefit, or service, either directly or through contractual, licensing, or other arrangements, shall not, on the basis of handicap:

(1) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(4) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary